

## **REMARKS / ARGUMENTS**

### **I. General Remarks and Disposition of the Claims**

Please consider the application in view of the following remarks. Applicants thank the Examiner for his careful consideration of this application, including the references that Applicants have submitted in this application and, pursuant to Manual of Patent Examining Procedure § 609.02, all references submitted in the patent applications to which this application claims priority under 35 U.S.C. § 120.

At the time of the Office Action, claims 21, 29, 31, 44-46 and 48-53 were pending in this application. Claims 21, 29, 31, 44-46 and 48-53 were rejected in the Office Action. Applicants respectfully request reconsideration in light of the remarks contained herein.

### **II. Remarks Regarding Objections to the Specification**

The Examiner has objected to the Specification because “the cross-noting section requires updating of the parent applications.” (Office Action at 2.) Applicants have amended paragraph [0001] herein to include this information and therefore respectfully request withdrawal of this objection.

### **III. Remarks Regarding Rejections Under 35 U.S.C. § 102 or §103**

Claims 21, 29, 31 and 44-53 stand rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 5,882,250 issued to Constien *et al.* (hereinafter “Constien”). With respect to this rejection, the Office Action states:

Claims 21, 29, 31 and 44-53 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Constien, US 5,882,250. See column 5, lines 40-65; and claims wherein the proppant (such as ceramic spheres, column 3, lines 61 et seq) is combined/added to brine (column 5, lines 45 et seq) after the other conventional additives for specific well conditions, wherein the ZnBr<sub>2</sub> brine may be employed. Constien (column 58 et seq) discloses polymer resin viscosifying agents with sodium or potassium halides as electrolytes (column 5, line 39). Said ZnBr<sub>2</sub> brine containing proppant reads on the coated particulate proppant since the proppant remains particulate when added and is coated with the polymer resin viscosified ZnBr<sub>2</sub> in the brine.

To the extent the Constien reference differs from the claims in the particulate material with sufficient specificity, Constien clearly contemplates compositions of proppant and ZnBr<sub>2</sub> brine and alkali

metal halides reading on the tracking salts. It would have been obvious to one of ordinary skill in the art at the time of applicants' invention to employ the  $\text{ZnBr}_2$  brine and alkali metal halides as brine constituents for their viscosifying, density and crystallization temperature properties recognized in the Constien reference.

To the extent Constien differs from the additives of the dependent claims. These are well known additives clearly contemplated in the Constien reference as special additives for specific well applications.

(Office Action at 3-4.) Applicants respectfully disagree. Applicants submit that the Examiner has not shown that *Constien* discloses, teaches, or suggests every element as recited in independent claims 21, 44 and 49 as required to anticipate these claims under 35 U.S.C. § 102(b), or to obviate these claims under 35 U.S.C. § 103(a). MPEP § 2131, 2142.

With respect to independent claims 21 and 44, *Constien* fails to disclose a "proppant composition comprising a particulate material that has been coated with a coating composition comprising a tracking composition and a resin composition." Rather than disclosing a particulate material coated with a coating composition comprising a resin composition as defined by Applicants, *Constien* discloses particulates placed in a fluid comprising viscosifying agents. *Constien*, col. 4, lines 41-45. The Office Action states that the viscosifying agents disclosed in *Constien* satisfy the "resin composition" requirement in claims 21 and 44, simply because the viscosifying agents are polymeric materials. (Office Action at 3.) Applicants respectfully disagree. There is no disclosure in *Constien* that the viscosifying agents disclosed therein are resins. Similarly, Applicants' specification defines "a resin" as those resin materials which are curable. Specification at ¶¶ [0013] and [0015]. *Constien* does not disclose curable resin compositions. Nor has the Examiner provided any motivation to modify *Constien* to teach this limitation. Therefore, Applicants respectfully submit that *Constien* fails to teach, suggest, or disclose all of the elements of independent claims 21 and 44 as required to anticipate or obviate these claims.

Furthermore, with respect to claims 21, 44 and 49, *Constien* fails to disclose a proppant composition comprising a particulate material that has been coated with "a coating composition comprising a tracking composition." Rather than disclosing a particulate material coated with a coating composition comprising a tracking composition, *Constien* discloses that particulates may be placed in a  $\text{ZnBr}_2$  brine. *Constien*, col. 5, lines 60-65. The Office Action

essentially states that when the particulates are placed in this brine, the particulates will be coated with “a coating composition comprising a tracking composition.” (*See* Office Action at 3.) Applicants respectfully disagree. It is clear from Applicants specification and claims that the “coating composition comprising a tracking composition” recited in claims 21, 44 and 49 forms an actual coating, *i.e.*, an outer layer, on the external face of a particulate such that the coating composition is adhered to the surface of the particulate. The coating composition is adhered to the surface of the particulate so that when the particulate is later produced from the formation to the surface, the zone from which the proppant emanated may be identified. Specification at ¶¶ [0010], [0013] and [0015]. *Constien* discloses no such proppant composition, but rather discloses that a particulate material is simply placed in a brine carrier fluid. As such, *Constien* fails to teach, suggest, or disclose all of the elements of independent claims 21, 44 and 49 as required to anticipate or obviate these claims.

Therefore, Applicants respectfully assert that independent claims 21, 44 and 49 are allowable over *Constien*. Claims 29, 31, 45-46 and 48-53 depend directly or indirectly from independent claims 21, 44 or 49 and thus include all the elements of that independent claim. *See* 35 U.S.C. § 112 ¶ 4 (2004). Accordingly, Applicants respectfully request the withdrawal of this rejection with respect to claims 21, 29, 31 and 44-46 and 48-53.

#### **IV. No Waiver**

All of Applicants’ arguments and amendments are without prejudice or disclaimer. Additionally, Applicants have merely discussed example distinctions from the cited references. Other distinctions may exist, and Applicants reserve the right to discuss these additional distinctions in a later Response or on Appeal, if appropriate. By not responding to additional statements made by the Examiner, Applicants do not acquiesce to the Examiner’s additional statements, such as, for example, any statements relating to what would be obvious to a person of ordinary skill in the art.

#### **SUMMARY**

In light of the above amendments and remarks, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections. Applicants further submit that the application is now in condition for allowance, and earnestly solicit timely notice of the same. Should the Examiner have any questions, comments or suggestions in furtherance of the

prosecution of this application, the Examiner is invited to contact the attorney of record by telephone, facsimile, or electronic mail.

Applicants believe that no fees are due in association with the filing of this response. Should the Commissioner deem that any fees are due, including any fees for extensions of time, Applicants respectfully request that the Commissioner accept this as a Petition Therefor, and direct that any additional fees be charged to Baker Botts, L.L.P.'s Deposit Account No. 02-0383, Order Number 063718.1133.

Respectfully submitted,

A handwritten signature in cursive script that reads "Larissa Piccardo". The signature is written in black ink and is positioned above a horizontal line.

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